

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1721 - SB 2821

April 15, 2022

SUMMARY OF BILL AS AMENDED (013693, 017315): Authorizes local governing bodies, by a two-thirds vote, to prorate tax year 2021 assessments for real personal, commercial, and industrial property and tangible personal property demolished, destroyed, or substantially damaged in a Federal Emergency Management Agency (FEMA) certified disaster occurring between August 20, 2021 and December 31, 2021. Deletes provision on December 31, 2022.

Increases, from \$2,500 to \$3,500, the maximum amount of sales and use tax refund for natural disaster claimants for a federally declared natural disaster that occurred on or about August 21, 2021 in Humphreys County and that occurred during the period of March 30, 2022 to April 7, 2022 in Sevier County. Establishes that purchases of major appliances, residential furniture, or residential building supplies used in a claimant's secondary residence that was damaged or destroyed as a result of the natural disaster are also eligible for the sales and use tax refund, in addition to those used in the claimant's primary residence.

Removes the cap on the amount of state shared sales tax revenue for Gatlinburg and Pigeon Forge for FY22-23 through FY25-26.

FISCAL IMPACT OF BILL AS AMENDED:

Decrease State Revenue – \$2,235,500/Each FY22-23 through FY25-26

Increase State Expenditures – \$112,100/FY22-23

Increase Local Revenue –

\$2,501,600/Gatlinburg/Each FY22-23 through FY25-26

\$4,204,800/Pigeon Forge/Each FY22-23 through FY25-26

Decrease Local Revenue –

\$1,100/Cheatham County/FY22-23/Permissive

\$1,100/Decatur County/FY22-23/Permissive

\$1,100/Dickson County/FY22-23/Permissive

\$1,100/Dyer County/FY22-23/Permissive

\$1,100/Gibson County/FY22-23/Permissive

\$1,200/Lake County/FY22-23/Permissive

\$1,100/Obion County/FY22-23/Permissive

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\$1,100/Stewart County/FY22-23/Permissive
\$1,200/Weakley County/FY22-23/Permissive
\$4,470,900/Sevier County/Each FY22-23 through FY25-26

Other Fiscal Impact – At the time of this analysis, the Federal Emergency Management Agency has not declared the wildfires that occurred during the period of March 30, 2022 to April 7, 2022 in Sevier County, a natural disaster. In the event that the wildfires are designated federally declared natural disasters, the proposed legislation as amended will result in an additional one-time increase to state expenditures in FY 22-23 estimated to exceed \$10,400.

Assumptions for the bill as amended relative to Proration Eligibility:

- On August 23, 2021, FEMA declared the severe storms and flooding occurring in Dickson, Hickman, Houston, and Humphreys Counties on August 21, 2021, a disaster.
- On December 12, 2021, FEMA declared the severe storms, straight-line winds, and tornadoes occurring in Cheatham, Decatur, Dickson, Dyer, Gibson, Lake, Obion, Stewart, and Weakley Counties on December 10-11, a disaster.
- Pursuant to Tenn. Code Ann. § 67-5-603 and Tenn. Code Ann. § 67-5-606, proration of assessments is authorized for qualifying events occurring to qualifying properties after January 1 and prior to September 1 of the tax year; therefore, the proposed legislation has no fiscal impact relative to the August 21 disaster.
- Any proration of 2021 property taxes by local governing bodies in Cheatham, Decatur, Dickson, Dyer, Gibson, Lake, Obion, Stewart, and Weakley Counties is permissive and dependent on a two-thirds vote by the respective legislative bodies.
- In order to qualify for proration, the qualifying property's replacement or restoration time must exceed 30 days from the date the damage was incurred.
- In jurisdictions voting to prorate property taxes, the county trustee and municipal tax collectors are required to refund the difference in tax resulting from proration for eligible property taxpayers who have already remitted property taxes for tax year 2021.
- Property taxpayers seeking proration must use a form approved by the Director of the Comptroller's Division of Property Assessments. Form creation and processing will be completed within existing resources. Any fiscal impact to the Comptroller of the Treasury's Office is estimated to be not significant.

Assumptions for the bill as amended relative to Damaged Properties:

- It is estimated that 100 percent of eligible property taxpayers will apply for proration.
- All proration estimates are calculated for 22 days, from December 10, 2021 through December 31, 2021.
- Based on information provided by the Comptroller of the Treasury, the 22-day proration totals for the following local taxing jurisdictions affected by the December storms are estimated as follows: Dickson County: \$1,062, Lake County: \$1,154, and Weakley County including the cities of Dresden and Greenfield, and unincorporated areas: \$1,180.

- The remaining counties of Cheatham, Decatur, Dyer, Gibson, Obion, and Stewart, did not provide data regarding locally assessed property.
- For the purpose of this analysis, it is assumed that the remaining counties will each have a proration total equaling the average of the totals from Dickson, Lake, and Weakley Counties, or \$1,132 [(Dickson County \$1,062 + Lake County \$1,154 + Weakley County \$1,180) / 3].
- It is estimated that the one-time permissive decrease in local revenue resulting from a proration of property taxes on properties damaged in the December storms will be: Cheatham County: \$1,132, Decatur County: \$1,132, Dickson: \$1,062, Dyer County: \$1,132, Gibson County: \$1,132, Lake County: \$1,154, Obion County: \$1,132, Stewart County: \$1,132, and Weakley County: \$1,180.

Assumptions for the bill as amended related to the sales tax refund for natural disaster claimants:

- Pursuant to Tenn. Code Ann. § 67-6-396, any person receiving disaster assistance through FEMA for repair, replacement, or construction of the person's primary residence that was damaged or destroyed as a result of a natural disaster occurring in Tennessee is entitled to a refund equal to the total amount of Tennessee state and local sales and use tax paid by the person on purchases of major appliances, residential furniture, or residential building supplies used in such primary residence within one year of receiving FEMA assistance in an amount not to exceed \$2,500. All refunds are paid from the state's General Fund and amount of sales and use tax payable to local governments is not to be reduced.
- The proposed legislation increases the maximum refund amount associated with any one residence to \$3,500, and will allow a person to claim an additional refund of sales and use taxes on purchases associated with the person's secondary residence. These provisions will only apply for damages incurred in the August 2021 natural disaster that occurred in Humphreys County.
- According to the Tennessee Emergency Management Agency, as a result of the August 2021 natural disaster, repairs were paid by FEMA for 332 claimants in Humphreys County.
- Based on information provided by the Department of Revenue (DOR):
 - Previous natural disaster in Sevier County resulted in an average refund of approximately \$2,850 per claimant, including primary and secondary residences and the increased maximum refund of \$3,500.
 - This is an increase of \$350 (\$2,850 average refund - \$2,500 standard refund) over the \$2,500 refund already allowed under current law.
 - Adjusting for inflation, it can be reasonably assumed that a refund issued today for a primary residence will result in an increase of \$400 over the standard \$2,500 refund.
 - To account for the existence of any secondary residence, it can be reasonably estimated that a refund issued today to a claimant for a primary and secondary residence will result in a total increase of \$450 over the current standard refund.

- The exact number of individuals who would apply and qualify for the sales tax refund is not known, but can be reasonably estimated to be 75 percent of claimants receiving FEMA repair assistance, or 249 (332 claimants x 75%).
- The one-time increase in state expenditures in FY22-23 is estimated to be \$112,050 (\$450 x 249 claimants).
- At the time of this analysis, FEMA has not declared a natural disaster occurred in Sevier County during the period of March 30, 2022 through April 7, 2022.
- In the event that FEMA does declare a natural disaster occurred during the above time period, the proposed increased maximum refund of \$3,500 for one primary and one secondary residence would apply to damages incurred in the Sevier County wildfires.
- According to local sources, more than 300 structures were damaged by the wildfires. For the purpose of this analysis, it is assumed that the 300 structures are owned by 300 individuals. It can be reasonably assumed that ten percent, or 30 individuals (300 individuals x 10%), would receive FEMA repair assistance.
- The exact number of individuals who would apply and qualify for the sales tax refund is not known, but can be reasonably estimated to be 75 percent of claimants expected to receive FEMA repair assistance, or 23 (30 claimants x 75%).
- The one-time increase to state expenditures in FY22-23 is estimated to exceed \$10,350 (\$450 x 23 claimants).

Assumptions for the bill as amended relative to the state shared sales tax revenue:

- Pursuant to Tenn. Code Ann. § 67-6-103, municipalities receive 4.603 percent of state sales tax revenue generated from the 7.0 percent state sales tax rate imposed on non-food goods and services and from the 4.0 percent state sales tax rate imposed on food and food ingredients. Such distributions are based on the municipalities' population relative to the aggregate population of all municipalities within the state.
- However, pursuant to Tenn. Code Ann. § 67-6-103(a)(3)(B)(i), a municipality defined as a premier type tourist resort may elect to receive 4.603 percent of such taxes actually collected and remitted by dealers within the boundaries of such resort.
- Such resorts, pursuant to Tenn. Code Ann. § 67-6-103(a)(3)(B)(ii) and (iii), that own a golf course and ski slope, or that contain within their boundaries a theme park of not less than 80 acres, shall also receive an additional amount equal to the amount above. Gatlinburg and Pigeon Forge qualify for such additional distributions.
- Finally, pursuant to Tenn. Code Ann. § 67-6-103(a)(3)(B)(iv)(a) and (b), Gatlinburg shall also receive 90 percent of the amount distributed in FY86-87 pursuant to the 4.603 percent allocation, and Pigeon Forge shall also receive 96 percent of the amount distributed in FY86-87 pursuant to the 4.603 percent allocation.
- However, pursuant to Tenn. Code Ann. § 67-6-103(a)(3)(B)(v), the abovementioned amounts:
 - Shall be limited to the collective amounts paid under such provisions for the FY99-00.
 - For FY21-22, must be allocated as follows:
 - 50 percent to the county in which the municipality is located; and
 - 50 percent to the municipality where the sale occurred.
 - For FY22-23 and subsequent years, must be allocated as follows:

- 50 percent to the county in which the municipality is located;
 - 25 percent to the municipality where the sale occurred; and
 - 25 percent to the General Fund.
- Fiscal Review Committee staff's current estimates for total sales tax collection growth rates are 10.96 percent from FY20-21 to FY21-22 and 5.0 percent from FY21-22 to FY22-23. For the purposes of this analysis, it is assumed that tax collections will remain constant.
- Based on information provided by DOR, the distribution of sales tax revenue under current law for FY22-23 is as follows:

		10.96%	5.0%	50%	25%	25%
	FY20-21	FY21-22	FY22-23	County	City	General Fund
Gatlinburg	\$2,862,824.61	\$3,176,590.19	\$3,335,419.70	\$1,667,709.85	\$833,854.92	\$833,854.92
Pigeon Forge	\$4,812,039.92	\$5,339,439.50	\$5,606,411.47	\$2,803,205.73	\$1,401,602.87	\$1,401,602.87

- The proposed legislation will suspend limitations and allocation requirements and apportion all amounts to the municipalities.
- Based on current distributions, it is estimated that the proposed legislation will result in the following impacts for each FY22-23 through FY25-26:
 - Decrease to state revenue to the General Fund of \$2,235,457.79 (\$833,854.92 + \$1,401,602.87);
 - Increase to local revenue:
 - Gatlinburg: \$2,501,564.77 (\$1,667,709.85 + \$833,854.92);
 - Pigeon Forge: \$4,204,808.60 (\$2,803,205.73 + \$1,401,602.87); and
 - Decrease to local revenue to Sevier County of \$4,470,915.58 (\$1,667,709.85 + \$2,803,205.73).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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